

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JAMES M. HUBER,	:	
Petitioner,	:	Case No. 3:08cv00244
vs.	:	District Judge Walter Herbert Rice
	:	Magistrate Judge Sharon L. Ovington
WARDEN, Allen Correctional	:	
Institution,	:	
	:	
Respondent.	:	

ORDER

Petitioner is an inmate in state custody at the Allen Correctional Institution due to criminal convictions, and a resulting twelve-year sentence, entered against him in the Miami County, Ohio Court of Common Pleas. His convictions and sentence arose from his no-contest pleas to charges of breaking and entering, theft, possession of drugs, engaging in a pattern of corrupt activity, and conspiracy to engage in a pattern of corrupt activity.

Petitioner seeks a writ of habeas corpus under 28 U.S.C. §2254. The case is pending on Petitioner's Motion to Stay (Doc. #15) and the record as a whole. Petitioner asserts that a Stay is warranted because he erred in filing his original habeas petition. It is not clear why Petitioner believes he committed an error. *See id.* Petitioner further notes, "pending in the Ohio Court of Appeals, Second District, Miami County, Ohio, i[s] an appeal of the petitioner's guilty pleas – Ohio Crim. R. 32.1 – by a through Patrick J. Conboy II....

Therefore the Court should stay the proceeding indefinitely.” *Id.*

Petitioner is not entitled to an indefinite stay of this case because he has unsuccessfully challenged the validity of his pleas in state court on at least two occasions. *See* Doc. #7 at 27-29. He provides no particular reason why the existence of his presently ongoing action in the Ohio Court of Appeals would support the issuance of a stay in this case.

Accordingly, the Court hereby DENIES Petitioner’s Motion for Stay (Doc. #15), and the instant habeas corpus case remains pending on the docket of this Court.

September 15, 2010

s/ Sharon L. Ovington
Sharon L. Ovington
United States Magistrate Judge